

# **SAN DIEGO COUNTY SHERIFF'S DEPARTMENT**

## **INTERIM POLICY AND PROCEDURE**

### **TESTING AND EVALUATION PHASE**

The following body-worn camera (BWC) policy will be in effect through the end of the BWC testing and evaluation period. At that time, the policy will be reviewed and revised as needed, prior to finalizing and publishing in the Department's Policy and Procedures Manual. All department personnel are required to review and familiarize themselves with the final policy, regardless of their involvement in the testing phase. Department personnel may find themselves involved in incidents where body cameras are being worn therefore, it is important that all Department personnel have a clear understanding of the policy.

**DATE:** September 16, 2015

**SECTION:** To be determined

**SUBJECT:** BODY WORN CAMERAS FIELD TEST/EVALUATION

**BUREAU:** DEPARTMENT WIDE

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#### **I. PURPOSE**

The body-worn camera (BWC) is an “on-the-body” audio and video recording system assigned to a Deputy Sheriff or Community Services Officer as an additional means of documenting specific incidents in the field (LESB, CSB, and DSB). The purpose of this policy is to establish guidelines related to the use, management, storage and retrieval of the data stored on the departmental issued BWC during the department testing and evaluation phase. Specific uses of the BWC include, but are not limited to:

- a.** Capturing crimes in-progress, whether perpetrated against Department personnel or the community and to maintain this evidence for presentation in court;
- b.** Documenting initial department response, the discovery of evidentiary items and the actions of the Department pursuant to an investigation;
- c.** Aiding in the documentation of victim, witness or suspect statements pursuant to a criminal investigation and the on-scene response and/or document advisement of rights, if applicable, and
- d.** Serving as a training and performance tool when such documentation pertains to an on-going professional training opportunity.

# INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

## **II. POLICY**

To enhance the services provided to the community, the San Diego County Sheriff's Department authorizes the field testing and evaluation of BWC technology. The goal of the BWC system is to provide an additional layer of documentation for events, actions, conditions and statements made during critical incidents and to improve reports, collection of evidence and testimony in court. The use of BWC technology is meant to assist and compliment Deputy Sheriff's and Community Service Officers in the performance of their duties and is not meant to replace or relieve the deputy or Community Service Officer of his/her responsibility of submitting any and all required written reports. Digital evidence captured by the BWC has limitations and is not all inclusive. The system captures a less broad and less detailed image than the totality of the human senses. A Deputy/Community Service Officer's recollection of specific details may be different than what is captured in digital evidence.

All audio, images and media associated with the BWC are the property of the San Diego County Sheriff's Department and will not be copied, released or disseminated in any form or manner outside the parameters of this policy without the express written consent of the San Diego County Sheriff or his designee. Sheriff's Detectives assigned to conduct criminal investigations, creating a secondary copy of a BWC recording subsequent to an official investigation, are exempt from the above. Under no circumstances will any employee of the San Diego County Sheriff's Department make a personal copy of any recorded event.

## **III. DEFINITIONS**

Body-Worn Camera (BWC) - A camera worn on an individual's person that records and stores audio and video.

BWC Program Administrator (Data Services) – San Diego Sheriff's Department program administrator for the BWC platforms covered during trial phase will be the Sheriff's Data Services designee.

Digital Evidence - BWC files, including photographs, audio recordings and video footage, captured by a BWC is considered investigative material and stored digitally.

Buffering Mode – When a BWC is on but has not been activated to record both sound and video. While in the buffering mode, the camera will continuously record video only in 30 second loops.

Evidence Transfer System - A portable multi-ported docking station installed at the commands. The ETM simultaneously recharges the BWC while uploading all digitally encrypted data from the device.

Metadata - Case numbers, event/incident numbers, and other descriptors used to identify digital evidence.

# INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

## **IV. PROCEDURE**

Deputies/Community Services Officers will not use the BWC until they have successfully completed required training on the inspection, activation, use, storage and uploading of all recorded media from the BWC.

### **A. Deputy/Officer Safety takes Precedence over Recording Events**

Deputy Sheriffs shall follow existing officer safety policies and training when conducting law enforcement related contacts as outlined in Department policies and procedures. Deputy/Officer safety shall be the primary consideration when contacting citizens or conducting law enforcement related contacts, not the ability to record an event.

### **B. General**

1. Only authorized personnel shall use or be in possession of a BWC device.
2. BWC equipment is for official use only and shall not be utilized for personal use.
3. Sheriff's Department personnel shall not tamper with or dismantle any hardware or software component of any BWC device.
4. The use of any other personal recording device for the same purpose is not authorized without permission of the Sheriff or his designee.
5. All digital evidence collected using the BWC is considered property of the San Diego Sheriff's Department and is for official use only.
6. Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use, and contrary to this procedure, is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Sheriff or his designee.

### **C. Storage**

When not in use, the BWC devices shall be stored in the designated docking module or in a secure storage location at each patrol station, court, or detention facility.

### **D. Pre-shift inspection**

1. Deputies/Community Services Officers assigned to wear a BWC shall inspect their BWC device daily to ensure there is no visual damage and the device is in working order.

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

2. Visual damage shall be immediately reported to the on-duty Sheriff's supervisor.
3. Inoperable equipment shall be returned to the Sheriff's Data Services Division as soon as possible.

### **E. Camera Position**

Deputies/Community Services Officers shall wear the BWC in a position that provides for the most effective recording angle for the model provided to the wearer and as identified by the BWC working group.

### **F. Equipment Repair, Replacement, and Maintenance**

1. When a BWC malfunctions, the deputies will notify his or her supervisor and Data Services.
2. The inoperable equipment will be taken to Sheriff's Data Services for repair as soon as possible.
3. This procedure will be followed for all BWC related equipment and accessories.

### **G. Advisements about Recording**

1. Deputies or Community Service Officers are not required to give notice they are recording, whether in public areas or private residences. However, if asked, the deputy or Community Service Officer may advise citizens they are being recorded.
2. When recording interviews, employees shall ensure they record any admonishments prior to the start of an interview.
3. Deputies and Sheriff's supervisors involved in an administrative investigation of a complaint against a member of the Sheriff's Department must inform complainants and witnesses they are being recorded.

### **H. When and Where to Record**

1. Enforcement Related Contacts
  - a. Deputies/ Community Service Officers shall activate the BWC to record all law enforcement related contacts. The record mode of the camera shall be activated prior to actual contact with the citizen

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

(victim/witness/suspect), or as soon as safely possible, and continue recording until the contact is concluded.

- b.** Law enforcement related contacts include but are not limited to the following: traffic stops, field interviews, vehicle tows, issuing of citations, issuing of parking tickets, detentions, arrests, persons present at radio calls who are accused of crimes, serving court orders or civil papers, investigative interviews, deputy initiated consensual encounters and private person initiated contacts of a confrontational nature.
- c.** Deputies in plain clothes assignments are not included in the requirements in paragraph 1a above; however, they will utilize the BWC when assigned to a uniformed patrol assignment under the provisions of this pilot program.

### **2. Suspect Interviews**

- a.** Deputies are encouraged to fully record suspect interviews. Generally, these recording should be continuous and deputies should not stop the recording during a suspect interview.
- b.** When recording interviews, Deputies shall ensure they record any admonishments prior to the start of an interview.

### **3. Private Residences**

Private Citizens have a reasonable expectation of privacy in their homes. However, when Deputies/ Community Service Officers are lawfully present in a home (for example - warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy. As a result, Deputies/ Community Service Officers shall comply with the recording requirements set forth in paragraph 1(a) above.

### **4. Searches**

Deputies/ Community Service Officers shall comply with the recording requirements set forth in paragraph 1(a) above. Deputies shall record during the execution of a search warrant regardless of whether or not persons are present, and also during service of an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the Deputy is looking for a suspect, victim of a crime, evidence or contraband.

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

### **5. Court holding/Detentions**

Deputies working intake shall activate the camera during the intake processing, any inmate movement, security checks, and any other event deemed necessary by sworn court/detentions/law enforcement staff.

*It is the intent of the Sheriff's Department to record all law enforcement related contacts, and other contacts within court field and holding area operations and detentions settings deemed appropriate.*

### **6. Supplemental Documentation**

#### **a. Injuries**

BWCs may be used to document physical injuries to persons injured during an incident. Using a BWC to document an injury does not relieve a deputy of a responsibility to properly identify and describe the injury in a deputy's report.

#### **b. Scene Documentation**

BWCs may be used to document the scene of an incident. Using a BWC to document the scene of an incident does not relieve a deputy of the responsibility to properly identify and describe the scene in a deputy's report.

#### **c. Transportation of arrestee/inmate**

BWCs may be used to record during the transportation of an arrestee/inmate. Using the BWC to record during the transportation of an arrestee/inmate does not relieve the deputy of a responsibility to document the recording in a deputy's report.

### **I. When and Where NOT to Record**

- 1.** BWCs shall not be used to record non-work related activity.
- 2.** BWCs shall not be used to record in areas or activities such as pre-shift conferences, Department locker rooms, break rooms, or other activities not related to law enforcement activity.
- 3.** BWCs shall not be activated in places where persons have a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms.

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

4. BWCs shall not be recording during court proceedings however; a deputy should activate the BWC during any emergency situation inside the courtroom and during any activity deemed by the deputy to be enforcement related.
5. Investigators shall not use the BWCs during Department administrative investigations.
6. Unless deemed evidentiary in nature, and directly related to a criminal investigation, when possible, deputies should avoid recording exposed areas of the body that could cause embarrassment or humiliation, such as exposed breast, groin, etc.

### 7. Patient Privacy

- a. Deputies/ Community Service Officers, on occasion, contact patients (victims/witnesses/suspects) in hospitals and shall comply with the recording requirements set forth in paragraph 1a. above; however, Deputies/Community Service Officers shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during PERT clinician interviews. Deputies/Community Service Officers shall be sensitive to patients' rights to privacy when in a hospital or medical facility setting and attempt to avoid recording persons other than the victim, witness or suspect.
- b. Deputies/ Community Service Officers shall not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present or transporting an arrestee to a psychiatric facility

### 8. Victim and Witness Interviews

- a. When interviewing victims and witnesses, Deputies/ Community Service Officers shall comply with the recording requirements set forth in paragraph H1(a) above. However, if the victim or witness refuses to provide a statement with the recorder turned on, the deputy may shut off the recorder after adhering to the following procedure:
  - 1) Before turning off the recorder, the deputy shall verbally notate on the recorder the reason for shutting it off and the time it is shut off.
  - 2) During the interview, if it becomes appropriate to reactivate the recorder based on paragraph H1(a) above, the deputy will immediately, or as soon as practical, do so.

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

- 3) Deputies shall document in NetRMS that the BWC was turned off and the reasons why.

### **9. Demonstrations**

- a. When there is reason to believe that a planned event has the potential for unlawful activity, Deputies and/or Incident Commanders should make the determination whether visual recording or photographing is appropriate.

### **J. Documentation of Recorded Events**

All recordings shall be documented, in NETRMS, field citation, field interview, CAD event history, etc.

1. “BWC Recording” shall be recorded in the Evidence section of the report and special studies section in NetRMS.
2. Field Interviews- “BWC Recording” shall be recorded in the narrative.
3. Traffic Citations - “BWC Recording” shall be recorded in the case number box near the top of all citations and CAD event history.
4. Other Reports - “BWC Recording” shall be recorded in the narrative.
5. Other Recordings - Non evidentiary recordings, such as inadvertent recordings, recordings initiated for training, or recordings with no associated report shall be documented in the CAD event history.

### **K. Entering Metadata**

Each recorded segment requires metadata be entered, even if the segments are of the same event. Metadata should be added at the conclusion of the event. In case of a delay, metadata should be added as soon as possible, and always prior to the end of shift.

### **L. Downloading/ Storage Procedures**

After verifying the required metadata has been added to all recorded events, deputies shall place the BWC into a slot on the Evidence Transfer System at the end of their shift. This will allow for the battery to recharge. The data will automatically be transferred from the BWC through the Evidence Transfer System and/or Sheriff's Data Services dedicated server. The data is considered entered into evidence at this point.



## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

### **M. Accessing Digital Evidence**

All those given permissions associated with the Sheriff's Data Services dedicated BWC server may review the digital evidence as needed in the performance of their official duties.

### **N. Retention of Digital Evidence**

All recordings related to any criminal proceeding, claim filed, pending litigation, or an administrative investigation/personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law or whichever period of time is greater.

### **O. Reviewing Impounded Digital Evidence**

1. Deputies/Community Service Officers may review their own BWC video prior to the completion of their written report when necessary to ensure accuracy. A deputy may review the BWC video of other involved deputies prior to writing a report. In Deputy involved shootings or situations where an investigation is being conducted, and a report has not yet been written regarding the incident, the assigned investigative supervisor will determine when BWC video will be reviewed by those directly involved. In any case where digital evidence is reviewed prior to writing reports, it shall be notated in the NetRMS report.
2. Detectives are responsible for reviewing, tracking digital evidence associated with their assigned cases, and forwarding digital evidence to the District Attorney when appropriate.

Deputies/Community Service Officers may review digital evidence prior to providing testimony at hearings, trial, or depositions.

3. Digital evidence may be viewed for administrative purposes including but not limited to the following:
  - a. Any incident in which a member of the Department is injured or killed during the performance of their duties.
  - b. Any incident involving the use of force by a member of the Department, including canines, which results in complaint of pain, injury or death.

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

- c. Any in-custody death.
- d. Any police pursuit.
- e. When any member of the Department discharges a firearm.
- f. When any member of the Department discharges any less lethal weapon.
- g. Traffic collisions involving department personnel.
- h. Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).
- i. In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.
- j. When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.
- k. For investigations undertaken by the Department to prove or disprove specific allegations of misconduct.
- l. Civil litigation

In situations where there is a need to review digital evidence not covered by this procedure, a Sheriff's Lieutenant or higher must approve the request. Each situation will be evaluated on a case by case basis.

### **P. Editing and Deleting Digital Evidence**

Deputies/Community Service Officers shall not edit or delete digital evidence. If an edited copy of the digital evidence is required, a copy of the original file shall be made, and only the copy shall be edited.

### **Q. Discovery of Misconduct**

Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital evidence, the conduct in question shall be brought to a supervisor. Nothing in this procedure prohibits addressing policy violations.

## INTERIM BODY WORN CAMERA POLICY AND PROCEDURES

### **R. Copying and Releasing Digital Evidence**

Digital evidence captured by BWC shall be treated as official investigative records and handled pursuant to existing Department policies and procedures.

### **S. Use of Digital Evidence for Training Purposes**

Deputies, Community Service Officers and supervisors may find it useful, and are encouraged, to review recordings of incidents of which they were involved when beneficial for the purpose of conducting a tactical debrief. When an incident is recorded (which may be of value as a training aid for a broad section of the Department) the recording Deputy/Community Service Officer or supervisor should contact the Sheriff's In-Service Training Unit who will review the digital evidence to determine the value of the incident for training.

Recordings from body-worn cameras may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the Sheriff. Deputies/ Community Service Officers shall be provided with at least thirty days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice. After notice is given, the Training Lieutenant shall obtain approval from the Chain of Command and Sheriff's Legal prior to department-wide distribution.